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7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**
10

11 DIANE SANCHEZ-LAZO,
12 Plaintiff,

13 vs.

14 SUN CAB, INC., a Nevada Corporation
15 d/b/a NELLIS CAB COMPANY; NELLIS
16 CAB, LLC., a Nevada Corporation; DOES
1 through 25, inclusive; and ROE
CORPORATIONS 1 through 25, inclusive,
17 Defendant.

Case No. 2:15-cv-00983-JCM-CWH

**~~PROPOSED~~ STIPULATION AND
ORDER TO STAY DISCOVERY**

FIRST REQUEST

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19 Defendants Sun Cab, Inc. d/b/a Nellis Cab Company and Nellis Cab, LLC ("Defendants")
20 and Plaintiff Diane Sanchez-Lazo ("Plaintiff"), by and through their respective attorneys, hereby
21 stipulate and agree to stay discovery until the Court has ruled on Defendants' Motion to Dismiss
22 Plaintiff's Complaint in its entirety (Dkt. #7).

23 In assessing a request to stay discovery, the Court decides whether it is necessary to speed
24 the parties along in discovery or whether it is more appropriate to delay discovery and spare the
25 parties of the associated expense. *Tradebay, LLC, v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D. Nev.
26 2011). To make this assessment, the court takes a "preliminary peek" at the merits of the
27 purportedly dispositive motion, though, importantly, this "preliminary peek" does not prejudice the
28 outcome of the motion, it merely evaluates whether an order staying discovery is warranted. *Id.* The

1 merits of the pending motion will ultimately be determined by the district judge, who may have a
2 different view than the magistrate judge. *Id.*

3 Defendants' Motion is of the type warranting a stay in discovery. First, Defendants contend
4 that Plaintiff's entire complaint should be dismissed. Defendants argue that Plaintiff fails to state a
5 *prima facie* case for disability discrimination because, among other things, she does not allege any
6 plausible disability within the meaning of the ADA. (*See* Dkt. #7, generally). Further, Plaintiff's
7 state tort claims for negligent hiring, supervision, and training and intentional infliction of emotional
8 distress warrant dismissal because they are premised on discrimination and remedied under statute
9 and equally fail to state plausible claims upon which relief can be granted. *Id.* Plaintiff obviously
10 disputes the legal arguments made in Defendants' Motion to Dismiss and has filed an Opposition to
11 the Motion. (Dkt. #10). However, the parties agree that the motion is of the type warranting a stay
12 of discovery and that discovery is not necessary while the Court resolves the legal issues raised by
13 the motion. Accordingly, requiring the parties to conduct discovery on claims that may not be
14 curable by amendment would cause an unnecessary expense on the parties and could potentially clog
15 the Court's docket with discovery disputes related to these claims, which may ultimately be
16 dismissed.

17 Second, because Defendants have moved to dismiss the entire case, Plaintiff has not been
18 apprised of which factual allegations Defendants intend to admit, and which Defendants intend to
19 deny. Nor has Plaintiff been apprised of the defenses Defendants intend to assert. Plaintiff believes
20 this would severely limit her opportunity to conduct full discovery while the Motion is pending.

21 Moreover, an Early Neutral Evaluation ("ENE") has been scheduled for August 17, 2015,
22 which has the potential to resolve this matter in full. As such, and in order to fully and productively
23 explore settlement at the ENE, the Parties have already held their Rule 26(f) Conference (on July 30,
24 2015), and will exchange Initial Disclosures within two weeks thereof, by August 13, 2015. Doing
25 so will allow the Parties useful insight into their respective legal positions and Plaintiff's calculation
26 of damages without the expense of proceeding with formal discovery.

27 Therefore, the parties jointly request the Court to stay discovery while Defendants' Motion to
28 Dismiss is pending.

1 Accordingly, discovery shall be stayed until the Court has ruled on Defendant's Motion to
2 Dismiss (Dkt. #7). If some or all of Plaintiff's claims survive, the Parties will submit a Proposed
3 Discovery Plan and Scheduling Order within ten (10) days of the Court's Order.

4 Dated: August 6, 2015

Dated: August 6, 2015

5 Respectfully submitted,

Respectfully submitted,

7 /s/ Patrick W. Kang

/s/ Crystal J. Herrera

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11 DIANE SANCHEZ-LAZO

Attorneys for Defendants,
12 SUN CAB, INC. d/b/a NELLIS CAB
13 COMPANY and NELLIS CAB, LLC

14 **ORDER**

15 **IT IS SO ORDERED.**

16 Dated: August 20, 2015.

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19 UNITED STATES MAGISTRATE JUDGE
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